

1 LEWIS AND ROCA LLP  
Robert M. Charles, Jr. (NV 6593)  
2 3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169-5996  
3 Telephone: 702.949.8320  
Facsimile: 702.949.8321  
4 E-mail: rcharles@LRLaw.com

5 MORRISON & FOERSTER LLP  
James E. Hough (NY 2109775) (Admitted *pro hac vice*)  
6 1290 Avenue of the Americas  
New York, New York 10104-0050  
7 Telephone: 212. 468.8000  
Facsimile: 212. 468.7900  
8 E-mail: jhough@mofo.com

9 Attorneys for Plaintiff  
JPMORGAN CHASE BANK, N.A.

11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 JPMorgan Chase Bank, N.A.,

14 Plaintiff,

15 v.

16 Focus South Group, LLC and John A. Ritter

17 Defendants.

**Case Nos.:**

Case No. 2:09-cv-01550  
Case No. 2:09-cv-01549  
Case No. 2:09-cv-01548  
Case No. 2:09-cv-01551  
Case No. 2:09-cv-01552  
Case No. 2:08-cv-01709  
Case No. 2:08-cv-01711  
Case No. 2:08-cv-01713  
Case No. 2:08-cv-01716  
Case No. 2:08-cv-01715

**STIPULATION OF DISMISSAL  
WITHOUT PREJUDICE**

21 This Stipulation (the "Stipulation") is entered as of December 9, 2011 by and between  
22 Plaintiff JPMorgan Chase Bank, N.A. in its capacity as Administrative Agent ("JPMorgan") on  
23 the one hand and the following parties (the "Dismissed Defendants") on the other:  
24

- 25 • Defendants John A. Ritter and Focus South Group, LLC (the "Focus Parties")
- 26 • Defendants KB Home and KB Home Nevada Inc.
- 27 • Defendants Toll Brothers Inc. and Coleman-Toll Limited Partnership
- 28 • Defendants Weyerhaeuser Real Estate Company and Pardee Homes of Nevada
- Defendants Beazer Homes USA, Inc. and Beazer Homes Holding Corp.

## Recitals

1. WHEREAS on December 5, 2008, JPMorgan (in its capacity as Administrative Agent, on behalf of the Lenders) commenced the “Completion Guaranty Cases” in the Southern District of New York. The Completion Guaranty Cases were ultimately transferred to the United States District Court for the District of Nevada. The Completion Guaranty Cases filed against the Dismissed Defendants are captioned<sup>1</sup>:

- *JPMorgan Chase Bank, N.A. v. Focus South Group, LLC and John A. Ritter*, Case No. 2:09-cv-01550
- *JPMorgan Chase Bank, N.A. v. KB Home and KB Home Nevada Inc.*, Case No. 2:09-cv-01549
- *JPMorgan Chase Bank, N.A. v. Coleman-Toll Limited Partnership and Toll Brothers, Inc.*, Case No. 2:09-cv-01548
- *JPMorgan Chase Bank, N.A. v. Weyerhaeuser Real Estate Company and Pardee Homes of Nevada*, Case No. 2:09-cv-01551
- *JPMorgan Chase Bank, N.A. v. Beazer Homes USA, Inc. and Beazer Homes Holdings Corp.*, Case No. 2:09-cv-01552

2. WHEREAS on December 5, 2008, JPMorgan (in its capacity as Administrative Agent, on behalf of the Lenders) also commenced the “UCC Cases” in the United States District Court for the District of Nevada (the “UCC Cases”). The UCC Cases filed against the Dismissed Defendants are captioned<sup>2</sup>:

- *JPMorgan Chase Bank, N.A. v. Focus South Group, LLC and John A. Ritter*, Case No. 2:08-cv-01709
- *JPMorgan Chase Bank, N.A. v. KB Home and KB Home Nevada Inc.*, Case No. 2:08-cv-01711
- *JPMorgan Chase Bank, N.A. v. Coleman-Toll Limited Partnership and Toll Brothers, Inc.*, Case No. 2:08-cv-01713
- *JPMorgan Chase Bank, N.A. v. Weyerhaeuser Real Estate Company and Pardee Homes of Nevada*, Case No. 2:08-cv-01716
- *JPMorgan Chase Bank, N.A. v. Beazer Homes USA, Inc. and Beazer Homes Holdings*

<sup>1</sup> JPMorgan also filed a Completion Guaranty case against Meritage Homes Corp. and Meritage Homes of Nevada, Inc. (“Meritage”) (*JPMorgan Chase Bank, N.A. v. Meritage Homes Corp. and Meritage Homes of Nevada, Inc.*, Case No. 2:09-cv-01547). Subject to the Meritage defendants’ consent, JPMorgan proposes to dismiss the case against the Meritage defendants without prejudice.

<sup>2</sup> JPMorgan also filed a UCC case against Meritage (*JPMorgan Chase Bank, N.A. v. Meritage Homes Corp. and Meritage Homes of Nevada, Inc.*, Case No. 2:08-cv-01717). Subject to the Meritage defendants' consent, JPMorgan proposes to dismiss the UCC Case against the Meritage defendants without prejudice.

1            *Corp.*, Case No. 2:08-cv-01715

2            3.    WHEREAS the Completion Guaranty Cases and the UCC Cases were subsequently  
3 consolidated for discovery purposes, in a base case entitled *JPMorgan Chase Bank, N.A. v KB*  
4 *Home, et al.*, Case No. 2:08-cv-01711-PMP-RJJ (United States District Court for the District of  
5 Nevada).

6            4.    WHEREAS on December 9, 2010, JPMorgan (in its individual capacity as Lender),  
7 Credit Agricole Corporate and Investment Bank and Wells Fargo Bank, N.A. (collectively, the  
8 “Petitioning Creditors”) filed an involuntary petition under chapter 11 of the United States  
9 Bankruptcy Code against South Edge, LLC (“South Edge”), commencing a case entitled *In re:*  
10 *South Edge, LLC*, United States Bankruptcy Court for the District of Nevada, Case No. 10-32968-  
11 BAM (the “South Edge Bankruptcy Case”), and JPMorgan, in its capacities as Administrative  
12 Agent and a creditor, sought the appointment of an interim and permanent chapter 11 trustee.

13            5.    WHEREAS on February 3, 2011, the Bankruptcy Court in the South Edge  
14 Bankruptcy Case entered an order for relief on the Petitioning Creditors’ involuntary petition, as  
15 well as an order directing the appointment of a chapter 11 trustee.

16            6.    WHEREAS JPMorgan in its capacity as Administrative Agent, together with the  
17 Settling Builders,<sup>3</sup> proposed and filed in the South Edge Bankruptcy Case the Joint Plan of  
18 Reorganization Proposed by JPMorgan Chase Bank, N.A., as Administrative Agent Under the  
19 Prepetition Credit Agreement, and the Settling Builders (Amended as of October 21, 2011), ECF  
20 No. 1309 (the “Plan”), which Plan was confirmed by order of the Bankruptcy Court dated  
21 October 27, 2011, ECF No. 1335]. The Plan provides for, among other things, a settlement  
22 among the Agent and the Settling Builders, and the assignment of South Edge’s real estate and  
23 certain other assets to the Acquirer, all as defined and provided in the Plan. On November 18,  
24 2011, the Plan became effective. Pursuant to the Plan, the Settling Builders paid in full the  
25 amounts sought by JPMorgan pursuant to the repayment guarantees provided by the Settling

26 \_\_\_\_\_  
27 <sup>3</sup> The Settling Builders are all of the Dismissed Defendants with the exception of the Focus Parties and Alameda  
28 Investments, LLC.

1 Builders (which repayment guarantees had been triggered as a result of the entry of the order for  
2 relief in the South Edge Bankruptcy Case). In total, the Settling Builders funded more than \$330  
3 million in repayment guarantee and other amounts pursuant to the Plan.

4 7. WHEREAS the Settling Builders, the Focus Parties, and JPMorgan (solely in its  
5 capacity as Administrative Agent) are parties to the Settlement and Mutual Release dated as of  
6 October 17, 2011 (the "Settlement Agreement"), under which the parties thereto resolved, among  
7 other things, all claims and potential claims between the Focus Parties, on the one hand, and the  
8 Settling Builders, (to the extent practicable and permissible under the Credit Agreement) the  
9 Administrative Agent, and the Trustee (on behalf of South Edge and its bankruptcy estate), on the  
10 other hand. Pursuant to the Settlement Agreement, the Focus Parties and various of their  
11 affiliates received \$40.4 million, including \$35.4 million paid by the Settling Builders.

12 8. WHEREAS, among other parties, the Settling Builders, JPMorgan (solely in its  
13 capacity as Administrative Agent), Inspirada Builders, LLC, South Edge (by Inspirada Builders  
14 LLC) and the Alameda Liquidating Trust, as successor-in-interest to Alameda Investments, LLC,  
15 are parties to the Settlement Agreement and Mutual Release of Claims dated as of November 8,  
16 2011 (the "Alameda Settlement Agreement"), under which the parties thereto granted the mutual  
17 releases provided for therein and agreed to consolidate and allow a single, \$56 million claim  
18 against the Alameda Liquidating Trust in favor of South Edge.

#### 19 **Stipulation**

20 IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned  
21 attorneys for JPMorgan and the Dismissed Defendants, as follows:

22 1. In accordance with the Plan, the Settlement Agreement and the Alameda Settlement  
23 Agreement, the UCC Cases and Completion Guaranty Cases filed against the Dismissed  
24 Defendants should be dismissed, in each case without prejudice, and without costs to any party.

25 2. This stipulation may be approved by the Court on an *ex parte* basis under Federal  
26 Rule of Civil Procedure 41(a)(2).  
27  
28

1 Dated: December 9, 2011

2 By: /s/ Anthony P. Sgro

3 PATTI SGRO & LEWIS  
4 Anthony P. Sgro  
5 720 South 7th Street, 3rd Floor  
6 Las Vegas, NV 89101  
7 Telephone: (702) 385-9595  
8 Facsimile: (702) 386-2737

9 WHITE & CASE, LLP  
10 Bryan A. Merryman  
11 Roberto J. Kampfner  
12 633 W. 5th Street, Suite 1900  
13 Los Angeles, CA 90071  
14 Tel: (213) 620-7729  
15 Facsimile: (213) 452-2329

16 *Counsel for Defendants John A. Ritter,  
17 and Focus South Group, LLC*

18 By: /s/ Andrew J. Detherage

19 Andrew J. Detherage  
20 Karoline E. Jackson  
21 BARNES & THORNBURG LLP  
22 11 S. Meridian Street  
23 Indianapolis, Indiana 46204  
24 Tel: (317) 236-1313  
25 Fax: (317) 231-7433  
26 Andy.Detherage@btlaw.com

27 Megan K. Dorsey  
28 KOELLER, NEBEKER, CARLSON,  
& HALUCK, LLP  
300 S. 4th St., # 500  
Las Vegas, Nevada 89101  
Tel: (702) 853-5500  
Fax: (702) 853-5599

*Counsel for Defendants Beazer Homes  
Holdings Corp. and Beazer Homes  
USA, Inc.*

By: /s/ Robert M. Charles, Jr.

LEWIS AND ROCA LLP  
Robert M. Charles, Jr.  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169-5996  
Telephone: 702.949.8320  
Facsimile: 702.949.8321  
E-mail: rcharles@LRLaw.com

James E. Hough (Admitted *pro hac vice*)  
MORRISON & FOERSTER LLP  
1290 Avenue of the Americas  
New York, NY 10104-0050  
Tel.: 212.468.8000  
Fax: 212.468.7900  
jough@mofo.com

*Counsel for JPMorgan Chase Bank, N.A.*

By: /s/ Fredric C. Nelson

Fredric C. Nelson (CA SBN 48402)  
John R. Foote (CA SBN 99674)  
NIXON PEABODY LLP  
One Embarcadero Center, 18th Floor  
San Francisco, California 94111  
Tel: (415) 984-8200  
Fax: (415) 984-8300  
fnelson@nixonpeabody.com

Pat Lundvall (NSBN 3761)  
MCDONALD CARANO WILSON LLP  
2300 West Sahara Avenue, Suite 1000  
Las Vegas, Nevada 89102  
Tel: (702) 873-4100  
Fax: (702) 873-9966

*Counsel for Defendants Pardee Homes of  
Nevada and Weyerhaeuser Real Estate  
Company*

By: /s/ Bruce E. Van Dalsem  
Bruce E. Van Dalsem  
Michael T. Lifrak  
QUINN EMANUEL URQUHART &  
SULLIVAN, LLP  
865 S. Figueroa Street, 10th Floor  
Los Angeles, California 90017  
Tel: (213) 443-3000  
Fax: (213) 443-3100  
brucevandalsem@quinnemanuel.com

Donald Lattin  
MAUPIN OATS COX& LEGOY, PC  
4785 Caughlin Pkwy  
Reno, Nevada 89509  
Tel: (775) 827-2000

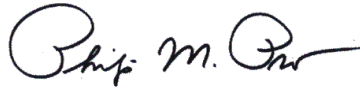
*Counsel for Defendants KB Home and  
KB Home Nevada, Inc.*

By: /s/ Mark T. Dooks  
Mark T. Dooks  
Thomas V. Reichert  
Benjamin D. Lichtman  
BIRD, MARELLA, BOXER, WOLPERT,  
NESSIM, DROOKS & LINCENBERG,  
P.C.  
1875 Century Park East  
Los Angeles, California 90067  
Tel: (310) 201-2100 Fax:  
(310) 301-2110  
mtd@birdmarella.com

Donald Lattin  
MAUPIN OATS COX& LEGOY, PC  
4785 Caughlin Pkwy  
Reno, Nevada 89509  
Tel: (775) 827-2000

*Counsel Defendants Coleman-Toll Limited  
Partnership and Toll Brothers, Inc.*

IT IS SO ORDERED



PHILIP M. PRO  
UNITED STATES DISTRICT JUDGE

Dated: December 12, 2011.